IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 37208 of 2007(D)

AGAINST THE ORDER IN RP 76/06 IN EA 1367/07 IN OS.482/1999 of II ADDL.SUB COURT,THRISSUR

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PETITIONER:

ELSY, W/O.LATE C.K.PAUL,
CHOVVALLUR HOUSE, ERAHMAKULAM,
THAIKKATT (CHAVAKKAD TALUK), TRICHUR DISTRICT.

BY ADV. SRI.K.RAMACHANDRAN

RESPONDENTS:

THE CATHOLIC SYRIAN BANK LTD.,
GURUVAYOOR BRANCH, P.O.GURUVAYOOR,
THRISSUR DISTRICT.

BY SC SHRI. C.A. JOY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.37208 OF 2007

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Dated this the 17th day of December 2007

JUDGMENT

This writ petition is preferred with a prayer to set aside Exts.P1 and P2 orders. By the said orders, the court has fixed the upset price at Rs.9, 35,000/- and also approved the proclamation and directed that the value shown by the judgment debtors also are incorporated in the draft sale proclamation. The court rejected the prayer for selling a portion of the property, one cannot find fault with the court because it is strictly in conformity with the decision of this Court in Dhanalakshmi Bank Ltd. v. Divakaran(2000(2) KLT 231). The present petitioner is the widow of one late C.K.Paul and it is submitted that the bank extended the facility of one time settlement and directed them to deposit an amount of Rs.11 lakhs for settling the issue. It is submitted that unfortunately only Rs.8,40,000/- was deposited and therefore there was no absolute compliance of the terms of settlement and thereafter the bank has filed the E.P.

2. Heard the learned counsel for the bank as well. It is submitted by him that though indulgence was shown there was no compliance and that

has forced the bank to file the E.P. One cannot say that the bank is legally totally incorrect. But the learned counsel for the petitioner submits before me that a widow is left with 3 daughters and the husband has died and therefore unless some mercy is shown, they may have to be in the streets. I feel the said submission requires some sympathetic consideration.

Therefore, I direct the petitioner herein to file an application before the bank on or before 15.1.2008 along with a deposit of Rs.1 lakh and I direct the bank to consider the application for showing leniency in a sympathetic manner and whatever possible within their means to reduce the liability may be granted. Since this is done at the instance of the petitioner, I hold that there need not be a production of a fresh proclamation and it will stand as waived. When the parties settle the matter, they can fix the terms and place the materials before the executing court for passing such orders. For the time being the sale which is posted to 1.1.2008 will stand deferred till 15.2.2008.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-